

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 5350 of 2005

Between:

Manohar G.Jain, Proprietor of Sri Ganesh Finance,
Basheerbagh, Hyderabad.

..... PETITIONER

AND

- 1 The Deputy Commissioner of Prohibition and Excise, Hyderabad Division,
Hyderabad.
- 2 The Prohibition and excise Inspector of Station House Officer, Rajendra
Nagar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ order or direction declaring the proceedings on cr.No.C4/16/2005 dated 9-3-2005 as illegal, arbitrary, contrary to law and issue consequential direction to the respondents to release the vehicle bearing No.A.P.9V 9446 and pass such other order or orders.

Counsel for the Petitioner: MR.K.CHIDAMBARAM

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following :

ORAL ORDER:

Heard both sides. Perused the material placed before me.

Petitioner seeks to declare the proceedings in Cr. No. C4/16/2005 dated 9-3-2005 issued by the first respondent as illegal and arbitrary.

By the impugned proceedings, the first respondent rejected the claim of the petitioner to release the Auto bearing No. A.P. 9V 9446 towards interim custody.

It appears that while carrying some illicitly distilled liquor the vehicle was seized. The driver of the vehicle ran away and his whereabouts are not known. The vehicle in question was purchased under a hire purchase scheme from the petitioner. When the petitioner approached the first respondent seeking interim custody of the vehicle, the first respondent rejected the claim of the petitioner on the ground that he had no valid papers at that point of time.

Now it is represented by the learned counsel for the petitioner that all documents, which disclose the ownership of the petitioner over the said vehicle, who is no other than the financier of the said vehicle, are

available with the petitioner and he is ready to produce all such documents in order to prove that he is the real owner of the said vehicle.

It is well settled principle that the purchaser, who purchased the vehicle under a hire purchase agreement, will become the absolute owner only when the entire amount is paid to the financier. In the present case, it appears that the hire purchaser has not paid the entire amount to the petitioner. For that reason, the petitioner would and should be declared as the owner of the vehicle.

Therefore, the petitioner is directed to make an application to the first respondent by producing all the relevant and valid documents in order to prove his ownership over the vehicle in question and upon any such application being made by the petitioner, the first respondent shall consider it and release the vehicle, if the petitioner succeeds in proving his contention. However, it is made clear that such release of the vehicle to the petitioner towards interim custody shall be subject to the condition of the petitioner executing a personal bond equivalent to the value of the vehicle as assessed by the Motor Vehicles Inspector and on further condition that he shall not alienate the vehicle in favour of others and he should also produce the same as and when required by the authorities concerned.

With the above directions, the writ petition is disposed of at the admission stage. No costs.

17-03-2005

Note:

Issue CC in three days

B/0

KVSN

To

- 1 The Deputy Commissioner of Prohibition and Excise, Hyderabad Division, Hyderabad.
- 2 The Prohibition and excise Inspector of Station House Officer, Rajendra Nagar, Hyderabad.
- 3 Two CCs to GP for Proh. & Excise, High Court buildings, Hyderabad.
- 4 Two CD copies.